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May 5, 2008

Via Facsimile and E-Mail

Seth Isaac Appel
D. Peter Harvey
Harvey Siskind Jacobs LLP
Four Embarcadero Center, 39th Floor
San Francisco, CA 94111

W. Mark Conger
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

Lisa Pearson
Kilpatrick Stockton LLP
31 West 52nd Street, 14th Floor
New York, NY 10019

David P. Morales
The Morales Law Firm
1414 Soquel Avenue, Suite 212
Santa Cruz, CA 95062

Re: Myguide Holding GMBH, et al. v. Randolph Kemps, et al.
Case No. C08-00057 JF MED

Dear Counsel:

As you know I have been appointed by the United States District Court to serve as Mediator. I have run the names of the parties through my firm's conflict of interest database, and found nothing to disclose. In the interest of full disclosure, I am acquainted professionally with Peter Harvey, who I believe was a lawyer at my former firm Pillsbury Madison & Sutro when I started there more than 20 years ago.

To further facilitate full and candid disclosure to me as the mediator, I commit to the following restrictions. I will not disclose to anyone else confidential information disclosed to me in the mediation process, and in particular will not discuss such information with other attorneys in my firm, absent express authorization to do so by the disclosing party. I will not accept an engagement in the future to serve as a lawyer if I have received confidential information from you or your clients that would be material to that engagement as a lawyer. Nor will I participate in any case (related or unrelated to the subject of the mediation) involving a party to this mediation during my engagement as mediator. These restrictions apply to me, and do not apply to my firm or any of its other lawyers.

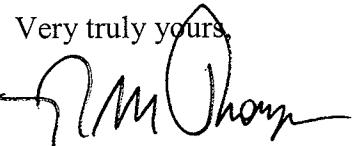
In response to Mr. Conger's email of today, advising that Judge Fogel has set the mediation to be held within the next 60 days and inquiring about my availability, I am generally

 Seth Isaac Appel
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unavailable the last two weeks in May. I am currently available during the period June 2-20 except for June 4, 6, 10 and 13. Please check with your clients and, if possible confer about your mutual preferences for hearing date before we conduct the short teleconference about the following:

- the procedures to be followed, including the ADR Local Rules
- the nature of the case
- appropriate date for the Mediation session and its anticipated length
- the parties who will be present at the session
- the available insurance coverage and whether any insurance representative will attend
- any matters that would pose impediments to an effective Mediation session
- requirements of the written Mediation statements
- any questions you might have about the Mediation

I would like to schedule the call for 9:30 a.m. or 10:00 a.m. on May 12-16. It should last no more than 1/2 hour. Please confer among yourselves and let my assistant, Angelica Dugan (415-954-3503), know promptly which date and time is preferable.

Very truly yours,

Roderick M. Thompson

RMT:avd

cc: Alice M. Fiel, ADR Case Administrator

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